IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH AT HYDERABAD

THE HON'BLE SRI JUSTICE GOPALAKRISHNA TAMADA

Writ Petition No.7170 of 1999

Dated: 04-04-2007

Between:

Aka Raghava Rao, s/o Sitaramaiah.

... Petitioner

and

1. The Executive Engineer,
   Drainage Division,
   Chirala and 3 others.

... Respondents

ORDER:

This writ petition is filed seeking a *mandamus* declaring the action of respondents in granting patta in Rc.No.1001/88/B, dated 14-07-1986 in favour of fourth respondent assigning the irrigation bund in S.No.16/2 and 17/2 of Adivi village, Bapatla Mandal without obtaining prior concurrence from the drainage organization, as highly arbitrary and contrary to the instructions given by the Government Memo No.160/Irrg.2-2/88-1, dated 08-03-1988 and Lr.No.1696 M dated 08-10-1996; and consequently direct respondents to consider the case of petitioner in the light of the

report of first respondent in Proceedings Lr.No.DB/D1/W.1(a)/513, dated 29-03-1997.

2. Facts, in brief, are: Petitioner and his family consisting of himself and his sisters own and possess an extent of Ac.41-00 cents of land in S.Nos.26, 27, 28, 29 and 154 of Adivi village, Bapatla Mandal. There is a wide irrigation canal popularly known as Bheemunigunta Vagu, which is having 10' height bund formed long back in S.Nos.16/2 and 17/2 of Adivi village.

The fourth respondent occupied the said drain bund without any manner of right and raised eucalyptus trees etc. obstructing passage for the pedestrians, carts and cattle to go to their lands. The authorities granted patta in favour of fourth respondent in respect of the said bund. According to petitioner, he and other villagers submitted representations dated

29-07-1989, 09-08-1989, 16-07-1996 requesting the authorities to cancel the patta granted in favour of fourth respondent informing the said bund is being used by them as roadway to reach their lands and the assignment is highly objectionable. In pursuance of the said representations, first respondent inspected the canal bund on 21-09-1996 and submitted report to second respondent in Proceedings Lr.No.DB/D1/W.1(a)/513, dated 29-03-1997 stating that there is no other way for the adjacent ayacutdars on right side from K.M.1.450 to 0.875 except to go along the right bank to enter into their fields. It is stated that the issuance of patta in respect of the drain bund is not admissible as the drain is for the benefit of ayacutdars, and also as the Government has given instructions vide Memo No.160/lrrg.2-2/88-1, dated 08-03-1988 not to give the canal bunds for any occupations.

3. The grievance of petitioner is that the second respondent failed to consider the report of first respondent and also failed to consider the

instructions given by the Government in Memo No.160/Irrg.2-2/88-1, dated 08-03-1988.

4. Despite the fact that the notices are served, respondents have not chosen to file any counter affidavit.

5. Heard learned counsel for the parties.

6. As first respondent – Executive Engineer has recommended that the very assignment made in favour of fourth respondent is contrary to the instructions given by the Government in its Memo No.160/Irrg.2-2/88-1, dated 08-03-1988 as well as the Board Standing Order 15(4), I deem it appropriate to direct respondent Nos.2 and 3 to consider the case of petitioner and pass appropriate orders.

7. Accordingly, the writ petition is allowed directing respondent Nos.2 and 3 to complete the aforesaid exercise within six weeks from the date of receipt of a copy of this order. No costs.

JUSTICE GOPALAKRISHNA TAMADA

Dt.04-04-2007
GLV